

REMARKS/ARGUMENTS

The Examiner has provisionally rejected claims 21-32 of the above referenced application based upon the judicially created doctrine of non-statutory double patenting. The Applicant respectfully traverses the Examiner's argument on the grounds that the amended claims do not qualify as an obvious modification of either co pending Application No. 10/728,689 (cited in the rejection) or Application No. 10/728,690.

The Examiner stated that "Claims 21-32 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21-32 of co pending Application No. 10/728,689. Although the conflicting claims are not identical, they are not patentably distinct from each other because both application teach a portable communicator comprising a wireless communication means; a computer which outputs control commands to the wireless communication means; a display which shows predetermined images; a power level display device which shows a remaining amount of power on the display."

The modified claims of the current invention claim a portable communicator where a switching device switches a display from one set of information to another. This limitation of the claims is neither taught, suggested, nor implied by claims of the co pending applications. In addition, amended claims 22, 24, 27, and 33-37, claim a portable communicator simultaneously showing two images on a single display. Therefore, since MPEP §2143.03 requires that "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art," for at least the reason shown, the Examiner has not met his burden of establishing a *prima facie* case of obviousness between this application and the other cited applications.

Claims 23, 25, and 26 have been canceled. Claims 22, 24, and 27, have been amended to independent form, not related to any prior art rejections. Claims 28 and 30 have been amended to correct minor errors not related to any prior art rejections. None of the co-pending Application Nos. 10/728,689 (cited in the rejection) or Application No. 10/728,690, claim

the ability to switch displays or simultaneously display two images on a single display. Therefore, the original rejection is now considered moot.

In view of the above, reconsideration of the rejection is respectfully requested.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Daryl R. Wright', is written over a horizontal line.

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